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Docket No. END-838

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No. 000027777 Conf. No.: 4856
Applicants : Gary Long et al.
Serial No. : 10/099,772 Art Unit: 3739
Filed : March 15, 2002 Examiner: Peter Vrettakos
For : METHOD FOR CONTROLLING POSITION OF MEDICAL INSTRUMENTS

Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being transmitted via facsimile to the US Patent and Trademark Office on January 16, 2006
Gerry Gressel
Gerry Gressel

TERMINAL DISCLAIMER

Dear Sir:

Your Petitioner, Ethicon Endo-Surgery, Inc., a corporation of the State of Ohio, having a registered office at 4545 Creek Road, Cincinnati, OH 45242, represents that it is the Assignee of the entire right, title and interest in and to the subject matter of U.S. Patent Application Serial No. 10/099,772, filed March 15, 2002, attorney docket number END-838, and US Patent Application Serial No. 10/098,250 filed March 15 2002, attorney docket number END-779.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 10/098,250, filed on March 15, 2002, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Please charge Deposit Account No. 10-0750/END-838 the fees for this Terminal Disclaimer for the cost of filing this Petition.

The undersigned is an attorney or agent of record.

Signed at Cincinnati, Ohio this 16th day of January, 2006.

Respectfully submitted,

 1/16/2006

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